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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,925	12/14/2000	Carl Dionne	1561-63	5812
23117 7590 08/31/2009 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
HUSSAIN, FARRUKH				
ART UNIT		PAPER NUMBER		
2444				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/735,925

**Applicant(s)**

DIONNE ET AL.

**Examiner**

FARRUKH HUSSAIN

**Art Unit**

2444

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/02)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in regards to the response received on 07/23/2009. Claims 23, 29, 35 and 36 have been amended. Claims 1-22 have been canceled. Claims 23 -42 are pending.

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. submission filed on 07/23/2009 has been entered.

### ***Response to Arguments***

1. Applicant's arguments filed 07/23/2009 have been fully considered but they are not persuasive.

Point A. With regards to the claim 23, Applicants argue that it is not possible for the objects of Hacherl to be the applicants' claimed data objects because they do not contain "data and dynamic elements comprising attributes and methods." Hacherl's objects contain only one type of information which cannot be both dynamic elements and data, and they certainly do not contain methods.

As to Point A, the examiner respectfully disagrees. Hacherl does in fact teach or suggests the applicants' claimed data objects because they do contain "data and dynamic elements comprising attributes and methods." Hacherl's objects contain both dynamic elements and data, and they certainly do contain methods (see column 1, lines 10-15 a system for dynamically allocating exclusive authority for performing network-wide tasks and see column 3, lines 40-43 Generally, program modules include routines, programs, objects, components, data structures and the like and see column 6, lines 34-41 An "object" is a distinct, named set of attributes that represents something concrete, such as a user, a printer, or an application and see claim 10 a method of transferring ownership of the master role from a current master server in the plurality of servers to a requesting server in the plurality of servers).

Point B. With regards to the claim 23, Applicants argue that Since Hacherl does not disclose data objects including both dynamic elements and data, it cannot disclose updating data in an object without changing the dynamic elements.

As to Point B, the examiner respectfully disagrees. Hacherl does in fact teach or suggests data objects including both dynamic elements and data, it does disclose updating data in an object without changing the dynamic elements (see column 7, lines 55-62 After a packet is successfully applied, the destination server will update its local copy of the agreement with the source's current update number, so that it will not continuously fetch the same changes)

Point C. Applicants argue that As will be noted, the claims have been amended to specify that each networked terminal maintains and displays an environment for a networked game and that each of the entities in the game are generated using the attributes and methods of a respective data object and displayed in an environment according to the data in the object. This is certainly not disclosed in Hacherl, which does not have any relevance to networked games.

As to Point C, the examiner respectfully disagrees. Hacherl does in fact teach or suggests any relevance to networked games (see column 4, lines 34-45 Other input devices (not shown) may include a microphone, joystick, game pad (networked game), satellite disk, scanner or the like and see column 5, lines 5-10 As noted, the computer described above can be deployed as part of a computer network. In general, the above description applies to both server computers and workstation computers deployed in a network environment).

4. Claims 29, 35, and 36 contain similar limitations as the limitations of claim 23 thus rejected for reasons similar to those in rejecting claim 23. Claims 24-28, 30-34 and 37-42 depend on claim 23, 29, 35 and 36 respectively thus rejected for reasons similar to those in rejecting claim 23.

***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**5. Claims 23-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Hacherl (U.S. Pat. No. 6,324,571).**

6. Regarding claims 23, 29, 35, 36, and 37, Hacherl disclosed an apparatus for sharing data over a network having a plurality of network-connected terminals, comprising a visual display (see column 4, lines 40-45 A monitor 47 or other type of display device is also connected to the system bus 23); a processor (see column 3, lines 43-51 multi-processor systems, microprocessor-based or programmable consumer electronics); storage (see column 3, lines 51-54 program modules may be located in both local and remote memory storage devices); and memory (see column 3, lines 51-54 program modules may be located in both local and remote memory storage devices); wherein said memory in each terminal includes: a first data object that contains data and (column 3, lines 40-43; column 6, lines 27-41) dynamic elements comprising attributes and methods (see column 6, lines 36-38 attributes (elements)) said first data object being (see claim 1, first data object) duplicated to each of said other network-

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connected terminals, and a plurality of second data objects, each of which contains and data dynamic elements, comprising attributes and methods and (see column 6, lines 36-38 attributes (elements)) each of which second data objects (see claim 1, second data object) is a duplicate of a data object on another terminal, such that there exists within the network a plurality of sets of duplicated data objects (column 3, lines 16-18; column 7, lines 58-62; column 8, lines 42-44); computer program instructions for normal operations comprising: maintaining an environment for a networked game and displaying said environment on said visual display (see column 4, lines 34-45 Other input devices (not shown) may include a microphone, joystick, game pad (networked game), satellite disk, scanner or the like and see column 5, lines 5-10 As noted, the computer described above can be deployed as part of a computer network. In general, the above description applies to both server computers and workstation computers deployed in a network environment); for at least one of said data objects in said memory, generating an entity using said methods and attributes in said data object and displaying it in said environment according to said data in said data object (see column 3, lines 51-54 program modules may be located in both local and remote memory storage devices and see column 6, lines 36-38 attributes (elements)); and periodically providing over said network an update of the data contained in said first data object (column 3, lines 18-19; column 5, lines 25-29; column 7, lines 38-57; column 8, lines 45-52), updating the data contained in said second objects in response to receiving updates over said network (column 7, lines 58-62),

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wherein for each of said updates a portion of the data in one of said second objects is replaced with data contained in the update without changing the dynamic elements in said second object(see column 7, lines 54-62 it will not continuously fetch the same changes and see column 7, lines 30-33 The second domain controller returns the replication data); and for each set of duplicated data objects; establishing one of said data objects as a master data object wherein said master object is responsible for maintaining consistency between the data in the data objects in said set, and when the terminal that maintains said master data object becomes unavailable, determining which of said data objects in the set should be master data object and establishing said data object as master data object (column 8, lines 21-29; column 9, lines 58-65).

7. Regarding claims 24, 30, and 38, Hacherl disclosed the method and system wherein said instructions to maintain data consistency between duplicated objects monitor CPU usage and network bandwidth utilization (column 11, lines 34-65; column 13, lines 20-30).

8. Regarding claims 25, 31, and 39, Hacherl disclosed the method and system wherein a terminal becomes unavailable when its CPU usage exceeds a threshold (column 11, lines 34-65; column 13, lines 20-30).

9. Regarding claims 26, 32, and 40, Hacherl disclosed the method and system wherein a terminal becomes unavailable when its bandwidth utilization exceeds a threshold (column 11, lines 34-65; column 13, lines 20-30).



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10. Regarding claims 27, 33, and 41, Hacherl disclosed the method and system wherein a terminal becomes unavailable when it is switched off (column 11, lines 34-65; column 13, lines 20-30).

11. Regarding claims 28, 34, and 42, Hacherl disclosed the method and system wherein a terminal becomes unavailable when its connection to the network is lost (column 11, lines 34-65; column 13, lines 20-30).

### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FARRUKH HUSSAIN whose telephone number is (571)270-5652. The examiner can normally be reached on Monday-Thursday, Alt. Friday, 7:30 A.M-5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Farrukh Hussain/  
Examiner, Art Unit 2444  
08/28/2009

/William C. Vaughn, Jr./  
Supervisory Patent Examiner, Art Unit 2444